

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT REGARDING MAX
DUTTON'S CLAIMS**

D-4

Declaration of Eric Litchfield Exhibit 4
M. Dutton's Decision-Making Day Coaching (11/20/2009)

| Coaching # 4583398 Status is Expired Mode is View | | | | | | | | | | | |
|---|------------|-------------|-----------|------------------|---------|----------|----------|--|--|--|--|
| Win Number | First Name | Middle Name | Last Name | Userid | Country | Division | Facility | | | | |
| 101087683 | MAX | R | DUTTON | MRDUTTO | US | 1 | 2000 | | | | |
| Type Of Coaching : | | | | | | | | | | | |
| The Level, and Reason(s) displayed below were the original Level, and Reason(s) selected for the coaching | | | | | | | | | | | |
| Level | | | | Reason(s) | | | | | | | |
| Decision Day | | | | Job Performance | | | | | | | |
| Observations of Associate's Behavior and/or Performance : | | | | | | | | | | | |
| Max Dutton has on numerous occasions displayed a disconnection between his actions and company direction. Specifically, his decision to provide store keys and his Store Manager Password to an hourly associate is in violation of AP-05 IS-01 . Mr. Dutton's decisions while raising money for CMN violated company policy GE-01 and were not in alignment with the Regional direction. Mr. Dutton has sent mixed messages to his associates causing confusion and frustration through failure to consistently adhere to company policies and procedures throughout the store specifically as it relates to preferred staffing, executing Event Calendar plus, modular integrity, playbook execution, viewing company merchandising shows and properly implementing the customer inventory process inventory management system. Finally, Mr. Dutton failed to adhere to our core value for respect for the individual through his actions with several current and former associates. | | | | | | | | | | | |
| Impact of Associate's Behavior : | | | | | | | | | | | |
| Mr. Dutton's behavior has negatively impacted the store's performance by creating confusion among associates as to who is leading the store. Furthermore, the lack of development of assigned Assistant Managers has created a leadership void and impacted the stores performance as well as adherence to company standards. Mr. Dutton's decisions regarding CMN fund raising to include conducting a raffle was not in alignment with the company policy or the Regional direction and exposed the company to possible litigation. | | | | | | | | | | | |
| Behavior Expected Of Associate : | | | | | | | | | | | |
| Follow and execute company policies procedures processes in accordance with guidance provided through corporate communications, Event Calendar Plus, playbooks, and leadership meetings. Develop leaders and associates assigned to your facility and assist these individuals to grow into greater leadership roles in the company. | | | | | | | | | | | |
| Next Level of Action : | | | | | | | | | | | |
| Action Plan : | | | | | | | | | | | |
| November 23, 2009 I have enjoyed my sixteen 16 year, nine 9 month career with our company always striving to do the right thing. I do apologize for my conduct on both accounts of giving an hourly associate, my invoice clerk, a set of keys and my sign on. I have been understaffed with management for quite some time which I understand is no excuse. At the time, I made these grave mistakes, it was an issue for me, but looking back again at the big picture, it was the wrong decision and one that will never be made again. I will always ensure that I am listening to and caring for all of our associates to drive engagement within our store. I feel as if I have a professional relationship with the associates to foster and promote engagement but apparently some associates do not feel that way. I will work harder to let everyone know that I am available to them and to not alienate anyone. I pride myself in perfection to run an exceptional and efficient store, which led me to use poor judgement resulting in the development of this action plan. I will never allow this to happen again. Although I will always strive for excellence and to follow the examples of the great leaders of this company as role models, I will maintain the values of this company by following all policies and procedures. I look forward to continuing my career with | | | | | | | | | | | |

Walmart to complete my 17th year of service to this great company in February 2010 and after that to be a stockholder and lifelong suppoter of Walmart.

Date, Time, and Place of Coaching :

Date Given : 11/20/2009 **Time :** 01:00 **Place :** Managers Office

Expiration Date :

The expiration date of the coaching may be extended beyond 11/21/2010 date, if the Associate spent time on LOA.

Acknowledgements**Date Acknowledged :****Associate**

Name : MAX R DUTTON

Userid : MRDUTTO

Manager

Name : ERIC L LITCHFIELD

Userid : ELLITCH

Witness

Name : TRACEY BATTLE

Userid : T2BATT

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